

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL, INC., COMEDY)
PARTNERS, COUNTRY MUSIC.)
TELEVISION, INC., PARAMOUNT)
PICTURES CORPORATION, and BLACK)
ENTERTAINMENT TELEVISION, LLC,)
)
Plaintiffs,)
)
vs.) NO. 07-CV-2103
)
YOUTUBE, INC., YOUTUBE, LLC,)
and GOOGLE, INC.,)
)
Defendants.)

THE FOOTBALL ASSOCIATION PREMIER)
LEAGUE LIMITED, BOURNE CO., et al.,)
on behalf of themselves and all)
others similarly situated,)
)
Plaintiffs,)
vs.) NO. 07-CV-3582
)
YOUTUBE, INC., YOUTUBE, LLC, and)
GOOGLE, INC.,)
)
Defendants.)

H I G H L Y C O N F I D E N T I A L
VIDEOTAPED DEPOSITION OF SERGEY BRIN
PALO ALTO, CALIFORNIA
THURSDAY, OCTOBER 15, 2009

JOB NO. 17756

1 OCTOBER 15, 2009

2 12:05 p.m.

3

4 VIDEOTAPED DEPOSITION OF SERGEY BRIN,

5 WILSON, SONSINI, GOODRICH & ROSATI, LLP,

6 601 Page Mill Road, Palo Alto, California

7 pursuant to notice, and before,

8 ANDREA M. IGNACIO HOWARD, CLR, RPR, CRR, CSR

9 License No. 9830.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

DAVID FELDMAN WORLDWIDE, INC.

450 Seventh Avenue - Ste 2803, New York, NY 10123 (212) 705-8585

1 A P P E A R A N C E S:

2

3 FOR THE PLAINTIFFS VIACOM INTERNATIONAL, INC.:

4 SHEARMAN & STERLING, LLP

5 By: STUART BASKIN, Esq.

6 SEAN T. STRAUSS, Esq.

7 599 Lexington Avenue

8 New York, New York 10022

9 (212) 848-4000 stuart.baskin@shearman.com

10

11 FOR THE LEAD PLAINTIFFS AND PROSPECTIVE CLASS:

12 BERNSTEIN LITOWITZ BERGER & GROSSMANN, LLP

13 By: JOHN C. BROWNE, Esq.

14 1285 Avenue Of The Americas

15 New York, New York 10019

16 (212) 554-1533 johnb@blbglaw.com

17

18 FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE, LLC and

19 GOOGLE, INC.:

20 MAYER BROWN, LLP

21 By: JOHN MANCINI, Esq.

22 DAVID MCGILL, Esq.

23 1675 Broadway

24 New York, New York 10019-5820

25 (212) 506-2312 jmancini@mayerbrown.com

DAVID FELDMAN WORLDWIDE, INC.

450 Seventh Avenue - Ste 2803, New York, NY 10123 (212) 705-8585

1 A P P E A R A N C E S (Continued.)

2

3 ALSO PRESENT: Timothy Alger, Deputy General Counsel

4 Adam Barea, Google Inc.

5 Lou Meadows, Videographer.

6

7 ---oOo---

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

DAVID FELDMAN WORLDWIDE, INC.

450 Seventh Avenue - Ste 2803, New York, NY 10123 (212) 705-8585

1 BRIN, S. - HIGHLY CONFIDENTIAL

2 12:08:56 THE VIDEOGRAPHER: Thank you.

3 12:08:57 Please administer the oath.

4 12:08:57

5 12:08:57 SERGEY BRIN,

6 12:08:57 having been sworn as a witness,

7 12:08:57 testified as follows:

8 12:09:08

9 12:09:08 MR. BASKIN: Ready?

10 12:09:13 THE REPORTER: Yes.

11 12:09:13

12 12:09:15 EXAMINATION BY MR. BASKIN

13 12:09:15 MR. BASKIN: Q. Good afternoon, Mr. Brin.

14 12:09:21 A Good afternoon.

15 12:09:22 Q You are both a founder and currently the

16 12:09:25 president of technology at Google?

17 12:09:27 A That's correct.

18 12:09:27 Q And do you attend most meetings of, I guess,

19 12:09:32 what used to be called the Executive Management Group?

20 12:09:36 A Yes.

21 12:09:36 Q And currently that's called the Operations

22 12:09:38 Committee; is that correct?

23 12:09:39 A It's a slightly different makeup now, but

24 12:09:42 there's significant overlap.

25 12:09:43 Q And you do try to attend most meetings of --

1 BRIN, S. - HIGHLY CONFIDENTIAL

13:08:33 2 such non-presentations actually.

13:08:36 3 Q Now, I take it, as you sit here now, you

13:08:38 4 don't recall the presentation shown to you in and

13:08:40 5 around the fall -- the spring of 2006 at the GPS that

13:08:45 6 considered Google Video, did you -- do you, sir?

13:08:47 7 MR. MANCINI: Objection; assumes facts; vague
13:08:49 8 and ambiguous.

13:08:49 9 THE WITNESS: Yeah, well, once again, I'm not
13:08:50 10 sure that there was such a presentation, and I don't
13:08:52 11 recall.

13:08:52 12 MR. BASKIN: Well, let me begin, if I can,
13:08:58 13 we'll mark as Exhibit 6...

13:09:20 14 MR. MANCINI: Stu, any sense of when you want
13:09:21 15 to break for lunch? Maybe after this document?

13:09:24 16 MR. BASKIN: Give me about another ten
13:09:26 17 minutes, then we'll break.

13:09:28 18 MR. MANCINI: Okay.

13:09:31 19 (Document marked Brin Exhibit 6
13:09:32 20 for identification.)

13:09:32 21 MR. BASKIN: Q. You can stop after page one,
13:11:10 22 Mr. Brin. I'm not going on to the other pages with
13:11:12 23 you.

13:11:13 24 A Okay. I'm just almost done. Okay.

13:11:38 25 Q Does this document, as Exhibit 6, Mr. Brin,

1 BRIN, S. - HIGHLY CONFIDENTIAL

13:11:41 2 refresh your recollection that you attended a GPS
13:11:44 3 meeting in the spring of 2006 where the discussion
13:11:46 4 undertaken at that meeting was Google Video's
13:11:49 5 copyright compliance practices and how best to compete
13:11:52 6 with YouTube?

13:11:53 7 MR. MANCINI: Objection; assumes facts, and
13:11:55 8 objection to the characterization of the document.

13:11:56 9 THE WITNESS: Yeah, no, I don't agree with
13:11:58 10 that. There's one bullet here that says that I said
13:12:01 11 something at the last GPS, which may or may not be
13:12:04 12 accurate, but -- but I feel like your characterization
13:12:11 13 of that goes beyond anything suggested here.

13:12:15 14 MR. BASKIN: Q. Well, does this document
13:12:17 15 refresh your recollection that you attended the Google
13:12:20 16 Video GPS in the spring of 2006?

13:12:21 17 A No.

13:12:21 18 MR. MANCINI: Objection; assumes facts.

13:12:23 19 MR. BASKIN: Q. No?

13:12:24 20 A No.

13:12:24 21 Q Do you recall --

13:12:25 22 A I'm not saying that I didn't. I'm just
13:12:26 23 saying no, this doesn't particularly help. I'm not
13:12:29 24 doubting you.

13:12:29 25 Q And as you sit here now, you have no

1 BRIN, S. - HIGHLY CONFIDENTIAL

13:12:31 2 recollection of attending the -- the Google Video GPS
13:12:33 3 meeting; is that right, Mr. Brin?

13:12:36 4 A That's correct. As I said, these happen at
13:12:39 5 least every week. In fact, the GPS is -- often
13:12:41 6 there's several of them stacked together, so I've
13:12:44 7 attended hundreds.

13:12:46 8 Q Now, you made reference a few minutes ago to
13:12:50 9 paragraph six of Exhibit 6; do you see that, Mr. Brin?

13:12:51 10 A Yeah, I made that in response to your
13:12:52 11 question, because that's the only mention of me.

13:12:54 12 Q Okay. And I take it, again, the Sergey
13:12:57 13 listed in paragraph six of Exhibit 6 is you, is it
13:13:00 14 not, sir?

13:13:00 15 A Well, you'd have to ask David. If I was sent
13:13:02 16 this, I would presume that.

13:13:04 17 Q Now, do you recall at a GPS meeting raising
13:13:13 18 the question, is changing a policy to increase
13:13:17 19 traffic, knowing beforehand that we'll profit from
13:13:24 20 illegal downloads, how we want to conduct our
13:13:27 21 business? Do you recall saying that, Mr. Brin?

13:13:29 22 MR. MANCINI: Objection; assumes facts.

13:13:30 23 THE WITNESS: No. I -- you know, I'd caution
13:13:32 24 you that people in the company often try to
13:13:35 25 characterize something I said, or Larry said, or Eric

1 BRIN, S. - HIGHLY CONFIDENTIAL

13:13:39 2 said to achieve a particular viewpoint that they have,
13:13:42 3 and it's -- very often mischaracterizes what one of us
13:13:46 4 may have said or takes it out of context, so...

13:13:49 5 MR. BASKIN: Q. And is it your position,
13:13:50 6 Mr. Brin, as you sit here today, that that sentence
13:13:53 7 mischaracterizes what you said?

13:13:55 8 A Yes, if I even said anything, but I -- I
13:13:57 9 would believe that it mischaracterizes it.

13:13:59 10 Q And do you recall at the prior GPS meeting
13:14:05 11 expressing the question of whether it is Googley to
13:14:11 12 change a policy to increase traffic knowing beforehand
13:14:14 13 that we'll profit from illegal downloads? Do you
13:14:17 14 remember saying that, sir?

13:14:18 15 MR. MANCINI: Objection; assumes facts.

13:14:19 16 THE WITNESS: No, I don't. And, furthermore,
13:14:22 17 even if you look at this document, that's a separate
13:14:25 18 sentence here. So that's not attached to anything
13:14:28 19 that I might have said.

13:14:30 20 MR. BASKIN: Q. Do you know the phrase "This
13:14:30 21 is Googley"? What does that mean, Mr. Brin?

13:14:33 22 A I could -- I could infer what it means. I
13:14:37 23 would -- I would assume that this is consistent with
13:14:45 24 Google's beliefs and values.

13:14:48 25 Q And that's, in fact, a concept that you use